

SENATE BILL No. 547

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2; IC 8-1-8.9.

Synopsis: Utility rates and charges. Gives the utility regulatory commission (IURC) broader access to records of an affiliate of an electric or gas utility. Provides that in a case for a fuel or gas cost charge, the utility consumer counselor or any party or intervenor may examine the records of an affiliate from which a utility buys fuel or gas to determine the reasonableness of the cost. Provides that as part of the regular examination of a utility's records, the utility consumer counselor may also examine the records of an affiliate from which the utility buys fuel or gas to determine the reasonableness of the cost of the fuel or gas. Allows the IURC, in ascribing revenue to a utility seeking a fuel or gas cost charge, to ignore any corporate distinction between the utility and an affiliate selling fuel or gas to the utility. Provides that a contract between a utility and an affiliate is not effective unless the IURC finds that the contract is in the public interest and the result of arm's length negotiations. Allows the IURC to adopt rules concerning certain transactions between utilities and affiliates. Prohibits a public utility that provides certain services from providing subsidies to its affiliates or for its unregulated activities. Requires an electric utility to report to the IURC any unplanned service interruptions that last at least two hours and affect at least : (1) 2% of the utility's customers; or (2) 1,500 customers; whichever is less. Requires the IURC to adopt rules establishing regular reporting intervals at which utilities must update the IURC on service restoration efforts. Provides that the reporting intervals for nonbusiness days must be at least as frequent as those for business days. Provides that the amount of a deposit charged to a potential or an existing customer by

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Effective: Upon passage; July 1, 2007.

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January 23, 2007, read first time and referred to Committee on Utilities & Regulatory Affairs.



an electric or gas utility may not exceed one-sixth of the estimated annual cost of the utility service to be provided to the customer. Allows a utility to impose a reasonable and just charge for the connection or reconnection of a customer's utility service. Provides that the charge may not exceed the utility's actual costs of connecting or reconnecting the service. Requires the IURC to amend certain rules governing: (1) customer deposits and connection and reconnection charges for electric and gas utility service; and (2) the reporting of certain measurements of an electric utility's system's reliability.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 547

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-42 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 42. (a) No change shall be
3 made in any schedule, including schedules of joint rates, except upon
4 thirty (30) days notice to the commission and approval by the
5 commission, and all such changes shall be plainly indicated upon
6 existing schedules or by filing new schedules in lieu thereof thirty (30)
7 days prior to the time the same are to take effect. The commission may
8 prescribe a shorter time within which a change may be made. A public,
9 municipally owned, or cooperatively owned utility may not file a
10 request for a general increase in its basic rates and charges within
11 fifteen (15) months after the filing date of its most recent request for a
12 general increase in its basic rates and charges, except that the
13 commission may order a more timely increase if:
14 (1) the requested increase relates to a different type of utility
15 service;



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(2) the commission finds that the utility's financial integrity or service reliability is threatened; or

(3) the increase is based on:

(A) a rate structure previously approved by the commission; or

(B) orders of federal courts or federal regulatory agencies having jurisdiction over the utility.

The phrase "general increase in basic rates and charges" does not include changes in rates related solely to the cost of fuel or to the cost of purchased gas or purchased electricity or adjustments in accordance with tracking provisions approved by the commission.

(b) No schedule of rates, tolls, and charges of a public, municipally owned, or cooperatively owned utility which includes or authorizes any changes in charges based upon costs is effective without the approval of the commission. Before the commission approves any changes in the schedule of rates, tolls, and charges of an electric utility which generates and sells electricity based upon the cost of fuel to generate electricity or upon the cost of fuel included in the cost of purchased electricity, the utility consumer counselor shall examine the books and records of the public, municipally owned, or cooperatively owned generating utility to determine the cost of fuel upon which the proposed charges are based. **The utility consumer counselor or any party to or intervenor in the hearing required under subsection (d) may also examine the books and records of any affiliated interest from which the utility purchases fuel or electricity to determine the reasonableness of the cost of fuel or electricity on which the proposed charges are based.** In addition, before such a fuel cost charge becomes effective, the commission shall hold a summary hearing on the sole issue of the fuel charge. The utility consumer counselor shall conduct ~~his~~ a review and make a report to the commission within twenty (20) days after the utility's request for the fuel cost charge is filed. The commission shall hold the summary hearing and issue its order within twenty (20) days after it receives the utility consumer counselor's report. The provisions of this section and sections 39, 43, 54, 55, 56, 59, 60, and 61 of this chapter concerning the filing, printing, and changing of rate schedules and the time required for giving notice of hearing and requiring publication of notice do not apply to such a fuel cost charge or such a summary hearing.

(c) Regardless of the pendency of any request for a fuel cost charge by any electric utility, the books and records pertaining to the cost of fuel of all public, municipally owned, or cooperatively owned utilities that generate electricity shall be examined by the utility consumer counselor not less often than quarterly, and the books and records of all

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electric nongenerating public, municipally owned, or cooperatively owned utilities shall be examined by the utility consumer counselor not less often than annually. **At the time of a quarterly or annual examination under this subsection, the utility consumer counselor may also examine the books and records of any affiliated interest from which an electric utility purchases fuel or electricity to determine the reasonableness of the cost of the fuel or electricity obtained by the utility.** The utility consumer counselor shall provide the commission with a report as to the examination of said books and records within a reasonable time following said examination. The utility consumer counselor may, if appropriate, request of the commission a reduction or elimination of the fuel cost charge. Upon such request, the commission shall hold a hearing ~~forthwith~~ in the manner provided in sections 58, 59, and 60 of this chapter.

(d) An electric generating utility may apply for a change in its fuel charge not more often than each three (3) months. When such application is filed, the petitioning utility shall show to the commission its cost of fuel to generate electricity and the cost of fuel included in the cost of purchased electricity for the period between its last order from the commission approving fuel costs in its basic rates and the latest month for which actual fuel costs are available. The petitioning utility shall also estimate its average fuel costs for the three (3) calendar months subsequent to the expiration of the twenty (20) day period allowed the commission in subsection (b). The commission shall conduct a formal hearing solely on the fuel cost charge requested in the petition subject to the notice requirements of IC 8-1-1-8 and shall grant the electric utility the requested fuel cost charge if ~~it finds that: the~~ **commission makes the following determinations:**

(1) The electric utility has made every reasonable effort to acquire fuel and generate or purchase power or both so as to provide electricity to its retail customers at the lowest fuel cost reasonably possible.

(2) The actual increases in fuel cost through the latest month for which actual fuel costs are available since the last order of the commission approving basic rates and charges of the electric utility have not been offset by **any combination of the following:**

(A) Actual decreases in ~~the electric utility's~~ other operating expenses.

(B) **Actual increases in the electric utility's revenues. In ascribing revenue to the electric utility, the commission may ignore any corporate distinction between the electric utility and an affiliated interest from which the electric**

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utility purchases fuel or electricity. Accordingly, the commission may consider any profits that:

(i) are received by an affiliated interest of the electric utility from the sale of fuel or electricity to the electric utility; and

(ii) result in the affiliated interest earning a rate of return that exceeds the rate of return authorized by the commission for the electric utility in the last proceeding in which the basic rates and charges of the electric utility were approved;

to be revenues of the electric utility.

(3) The fuel adjustment charge applied for will not result in the electric utility earning a return in excess of the return authorized by the commission in the last proceeding in which the basic rates and charges of the electric utility were approved. However, subject to section 42.3 of this chapter, if the fuel charge applied for will result in the electric utility earning a return in excess of the return authorized by the commission in the last proceeding in which basic rates and charges of the electric utility were approved, the fuel charge applied for will be reduced to the point where no such excess of return will be earned. ~~and~~

(4) The utility's estimate of its prospective average fuel costs for each such three (3) calendar months are reasonable after taking into consideration:

(A) the actual fuel costs experienced by the utility during the latest three (3) calendar months for which actual fuel costs are available; and

(B) the estimated fuel costs for the same latest three (3) calendar months for which actual fuel costs are available.

(e) Should the commission at any time determine that an emergency exists that could result in an abnormal change in fuel costs, it may, in order to protect the public from the adverse effects of such change, suspend the provisions of subsection (d) as to the utility or utilities affected by such an emergency and initiate such procedures as may be necessary to protect both the public and the utility from harm. The commission shall lift the suspension when it is satisfied the emergency no longer exists.

(f) Any change in the fuel cost charge granted by the commission under the provisions of this section shall be reflected in the rates charged by the utility in the same manner as any other changes in rates granted by the commission in a case approving the basic rates and charges of the utility. However, the utility may file the change as a

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1 separate amendment to its rate schedules with a reasonable reference
2 therein that such charge is applicable to all of its filed rate schedules.

3 (g) No schedule of rates, tolls, and charges of a public, municipally
4 owned, or cooperatively owned gas utility that includes or authorizes
5 any changes in charges based upon gas costs is effective without the
6 approval of the commission except those rates, tolls, and charges
7 contained in schedules that contain specific provisions for changes in
8 gas costs or the cost of gas that have previously been approved by the
9 commission. Gas costs or cost of gas may include the gas utility's costs
10 for gas purchased by it from pipeline suppliers, costs incurred for
11 leased gas storage and related transportation, costs for supplemental
12 and substitute gas supplies, costs incurred for exploration and
13 development of its own sources of gas supplies, and other expenses
14 relating to gas costs as shall be approved by the commission. Changes
15 in a gas utility's rates, tolls, and charges based upon changes in its gas
16 costs shall be made in accordance with the following provisions:

17 (1) Before the commission approves any changes in the schedule
18 of rates, tolls, and charges of a gas utility based upon the cost of
19 the gas, the utility consumer counselor may examine the books
20 and records of the public, municipally owned, or cooperatively
21 owned gas utility to determine the cost of gas upon which the
22 proposed changes are based. **The utility consumer counselor or**
23 **any party to or intervenor in the hearing required under**
24 **subdivision (3) may also examine the books and records of any**
25 **affiliated interest from which the gas utility purchases gas to**
26 **determine the reasonableness of the cost of gas on which the**
27 **proposed charges are based.** In addition, before such an
28 adjustment to the gas cost charge becomes effective, the
29 commission shall hold a summary hearing on the sole issue of the
30 gas cost adjustment. The utility consumer counselor shall conduct
31 ~~this~~ a review and make a report to the commission within thirty
32 (30) days after the utility's request for the gas cost adjustment is
33 filed. The commission shall hold the summary hearing and issue
34 its order within thirty (30) days after it receives the utility
35 consumer counselor's report. The provisions of this section and
36 sections 39, 43, 54, 55, 56, 59, 60, and 61 of this chapter
37 concerning the filing, printing, and changing of rate schedules and
38 the time required for giving notice of hearing and requiring
39 publication of notice do not apply to such a gas cost adjustment
40 or such a summary hearing.

41 (2) Regardless of the pendency of any request for a gas cost
42 adjustment by any gas utility, the books and records pertaining to

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cost of gas of all public, municipally owned, or cooperatively owned gas utilities shall be examined by the utility consumer counselor not less often than annually. **At the time of an annual examination under this subdivision, the utility consumer counselor may also examine the books and records of any affiliated interest from which a gas utility purchases gas to determine the reasonableness of the cost of the gas obtained by the utility.** The utility consumer counselor shall provide the commission with a report as to the examination of said books and records within a reasonable time following said examination. The utility consumer counselor may, if appropriate, request of the commission a reduction or elimination of the gas cost adjustment. Upon such request, the commission shall hold a hearing ~~forthwith~~ in the manner provided in sections 58, 59, and 60 of this chapter. (3) A gas utility may apply for a change in its gas cost charge not more often than each three (3) months. When such application is filed, the petitioning utility shall show to the commission its cost of gas for the period between its last order from the commission approving gas costs in its basic rates and the latest month for which actual gas costs are available. The petitioning utility shall also estimate its average gas costs for a recovery period of not less than the three (3) calendar months subsequent to the expiration of the thirty (30) day period allowed the commission in subdivision (1). The commission shall conduct a summary hearing solely on the gas cost adjustment requested in the petition subject to the notice requirements of IC 8-1-1-8 and may grant the gas utility the requested gas cost charge if it ~~finds that:~~ **the commission makes the following determinations:**

(A) The gas utility has made every reasonable effort to acquire long term gas supplies so as to provide gas to its retail customers at the lowest gas cost reasonably possible.

(B) The pipeline supplier or suppliers of the gas utility, ~~has or any affiliated interests of the gas utility from which the gas utility purchases gas, have~~ requested or ~~has~~ have filed for a change in the costs of gas pursuant to the jurisdiction and procedures of a duly constituted regulatory authority.

(C) **The actual increases in gas costs (through the latest month for which actual gas costs are available) since the last order of the commission approving basic rates and charges of the gas utility have not been offset by actual decreases in the gas utility's other operating expenses or actual increases in the gas utility's revenues, or both. In**

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ascribing revenue to the gas utility, the commission may ignore any corporate distinction between the gas utility and an affiliated interest from which the gas utility purchases gas. Accordingly, the commission may consider any profits that:

(i) are received by an affiliated interest of the gas utility from the sale of gas to the gas utility; and

(ii) result in the affiliated interest earning a rate of return that exceeds the rate of return authorized by the commission for the gas utility in the last proceeding in which the basic rates and charges of the gas utility were approved;

to be revenues of the gas utility.

~~(C)~~ (D) The gas cost adjustment applied for will not result, in the case of a public utility, in its earning a return in excess of the return authorized by the commission in the last proceeding in which the basic rates and charges of the public utility were approved. However, subject to section 42.3 of this chapter, if the gas cost adjustment applied for will result in the public utility earning a return in excess of the return authorized by the commission in the last proceeding in which basic rates and charges of the gas utility were approved, the gas cost adjustment applied for will be reduced to the point where no such excess of return will be earned. ~~and~~

~~(D)~~ (E) The utility's estimate of its prospective average gas costs for each such future recovery period is reasonable and gives effect to:

(i) the actual gas costs experienced by the utility during the latest recovery period for which actual gas costs are available; and

(ii) the actual gas costs recovered by the adjustment of the same recovery period.

(4) Should the commission at any time determine that an emergency exists that could result in an abnormal change in gas costs, it may, in order to protect the public or the utility from the adverse effects of such change, suspend the provisions of subdivision (3) as to the utility or utilities affected by such an emergency and initiate such procedures as may be necessary to protect both the public and the utility from harm. The commission shall lift the suspension when it is satisfied the emergency no longer exists.

(5) Any change in the gas cost charge granted by the commission

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under the provisions of this section shall be reflected in the rates charged by the utility in the same manner as any other changes in rates granted by the commission in a case approving the basic rates and charges of the utility. However, the utility may file the change as a separate amendment to its rate schedules with a reasonable reference therein that such charge is applicable to all of its filed rate schedules.

(h) As used in this section, "affiliated interest" has the meaning set forth in section 49(c) of this chapter.

SECTION 2. IC 8-1-2-42.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 42.3. (a) As used in this section, "relevant period" means the last month of the twelve (12) month test period considered in the current application before the commission under ~~section 42(d)(3)~~ **section 42(d)** and ~~42(g)(3)(C)~~ **42(g)(3)** of this chapter and extending through the longer of the:

- (1) immediately preceding fifty-nine (59) months; or
- (2) period beginning with the first full month following the last order issued by the commission in which the utility's basic rates and charges were approved.

(b) The commission shall order a reduction in the:

- (1) fuel charge applied for under ~~section 42(d)(3)~~ **section 42(d)** of this chapter; or
- (2) gas cost adjustment applied for under ~~section 42(g)(3)(C)~~ **section 42(g)(3)** of this chapter;

only if the amount determined under subsection (c) is greater than zero.

(c) The commission shall calculate for the relevant period the sum of the differentials (both positive and negative) between the determined return and the authorized return for the respective twelve (12) month test period for each application for the relevant period, in each case as shown directly or indirectly by the commission's findings in each respective order issued under section 42(d) or 42(g) of this chapter.

(d) Consistent with subsection (b), the amount of reduction shall be determined by dividing the lesser of:

- (1) the amount determined under subsection (c); or
- (2) the amount by which the return in the current application before the commission was more than the authorized return;

by the total number of applications filed during the twelve (12) month test period considered in the current application before the commission.

(e) This section does not apply to a general district corporation within the meaning of IC 8-1-13-23(a).

SECTION 3. IC 8-1-2-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48. (a) The commission shall

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1 inquire into the management of the business of all public utilities, and
 2 shall keep itself informed as to the manner and method in which the
 3 same is conducted and shall have the right to obtain from any public
 4 utility all necessary information to enable the commission to perform
 5 its duties. If, in its inquiry into the management of any public utility,
 6 the commission finds that the amount paid for the services of its
 7 officers, employees, or any of them, is excessive, or that the number of
 8 officers or persons employed by such utility is not justified by the
 9 actual needs of the utility, or that any other item of expense is being
 10 incurred by the utility which is either unnecessary or excessive, the
 11 commission shall designate such item or items, and such item or items
 12 so designated, or such parts thereof as the commission may deem
 13 unnecessary or excessive, shall not be taken into consideration in
 14 determining and fixing the rates which such utility is permitted to
 15 charge for the service which it renders.

16 (b) For purposes of IC 8-1-2, IC 8-1-8.5, IC 8-1-8.7, IC 8-1-8.8, and
 17 IC 8-1-27, wages paid to an independent contractor of a utility for
 18 construction or maintenance performed for the utility shall not be found
 19 to be excessive merely because the wages are those normally paid for
 20 work of the same type and quality in the labor market in which the
 21 work for the utility is being performed.

22 (c) **Subject to section 48.3 of this chapter**, in carrying out its duties
 23 and powers under subsection (a) with regard to any utility which sells
 24 or generates electricity, the commission may also inquire into or audit
 25 a utility's powerplant efficiency and system reliability.

26 SECTION 4. IC 8-1-2-48.3 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: **Sec. 48.3. (a) As used in this section, "business
 29 day" means all days other than:**

- 30 (1) Saturday;
- 31 (2) Sunday; or
- 32 (3) a legal holiday observed by the state.

33 (b) **As used in this section, "nonbusiness day" means:**

- 34 (1) Saturday;
- 35 (2) Sunday; or
- 36 (3) a legal holiday observed by the state.

37 (c) **As used in this section, "planned service interruption" means**
 38 **a service interruption initiated by a utility to perform scheduled**
 39 **activities, including any of the following:**

- 40 (1) Maintenance.
- 41 (2) Infrastructure improvements.
- 42 (3) New construction due to customer growth.

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(d) As used in this section, "utility" refers to:

(1) a public utility; or

(2) a corporation organized under IC 8-1-13;

that is subject to the jurisdiction of the commission and engaged in the production, sale, or distribution of electric service.

(e) In exercising its authority to inquire into or audit a utility's system reliability under section 48(c) of this chapter, the commission shall require a utility to report any interruption in service that:

(1) is not a planned service interruption;

(2) lasts for at least two (2) hours; and

(3) affects at least:

(A) two percent (2%) of the utility's customers; or

(B) one thousand five hundred (1,500) customers;

whichever is less.

(f) The commission shall adopt rules under IC 4-22-2 to establish regularly scheduled reporting intervals at which a utility must update the commission on the utility's progress in restoring service to affected customers. Rules adopted under this subsection must:

(1) require the utility to update the commission at each regularly scheduled interval until service has been restored to a level at which the number of customers without service is less than the threshold set forth in subsection (e)(3); and

(2) establish reporting intervals for nonbusiness days that are at least as frequent as the reporting intervals for business days.

(g) To the extent that they conflict with this section, the following are void:

(1) 170 IAC 4-1-23.

(2) Any other rule:

(A) adopted by the commission; and

(B) governing reporting requirements with respect to a utility's system reliability.

(h) The commission shall adopt rules under IC 4-22-2 to amend the rules described in subsection (g) to the extent necessary to make the rules conform to the requirements of this section.

SECTION 5. IC 8-1-2-48.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 48.5. (a) As used in this section, "assigned service area" has the meaning set forth in IC 8-1-2.3-2.

(b) As used in this section, "public utility" includes the

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following:

(1) A public utility engaged in producing, transmitting, delivering, or furnishing heat, light, or power.

(2) A public utility owned or held in trust by a consolidated city under IC 8-1-11.1.

The term does not include a communications service provider (as defined in IC 8-1-2.6-13), except to the extent that the communications service provider engages in any of the activities described in subdivision (1).

(c) As used in this section, "resources" includes any of the following available to a public utility in operating the public utility's business:

(1) Advertising.

(2) Billing and mailing systems.

(3) Customer and marketing information.

(4) Personnel.

(5) Office equipment.

(6) Office space.

(7) Supplies.

(8) Tools.

(9) Training.

(10) Trucks.

(11) Use of the public utility's name.

(d) As used in this section, "subsidy" means the giving by a public utility:

(1) to an affiliate; or

(2) for the benefit of an unregulated activity of the public utility;

an advantage or preference with respect to the public utility's resources.

(e) A public utility subject to the commission's jurisdiction may not provide a subsidy with respect to a product or service offered or provided to the public by the public utility if the product or service is:

(1) offered or provided in the public utility's assigned service area; and

(2) not subject to the commission's jurisdiction.

(f) A person who suffers a pecuniary loss from a violation of this section may file a complaint with the commission. The commission shall investigate the complaint as the commission considers appropriate. After notice and hearing, the commission may use any powers it has under this title to remedy a violation of this section,

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1 including ordering the public utility to immediately cease any
2 activity the commission finds to be in violation of this section.

3 (g) Notwithstanding subsection (f), a person who suffers a
4 pecuniary loss from a violation of this section may file a civil action
5 in an Indiana court having jurisdiction. If the court finds that the
6 person has suffered a pecuniary loss, the court may do the
7 following:

8 (1) Grant appropriate injunctive relief.

9 (2) Award appropriate damages.

10 A person who files a civil action under this subsection is not
11 required to exhaust administrative remedies.

12 SECTION 6. IC 8-1-2-49 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE UPON PASSAGE]: Sec. 49. (†) (a) The commission, or
14 any commissioner when authorized by the commission, or any person
15 or persons employed by the commission for that purpose shall upon
16 demand have the right to inspect the books, accounts, papers, records,
17 and memoranda of any public utility and to examine, under oath, any
18 officer, agent, or employee of such public utility in relation to its
19 business and affairs. Any person other than one of said commissioners
20 who shall make such demand shall produce his the person's authority
21 to make such inspection. The commission shall have jurisdiction over
22 holders of the voting capital stock of all public utility companies under
23 its jurisdiction to such extent as may be necessary to enable the
24 commission to require the disclosure of the identity in respective
25 interests of every owner of any substantial interest in such voting
26 capital stock. One percent (1%) or more is a substantial interest, within
27 the meaning of this section.

28 (‡) (b) Said commission shall have jurisdiction over an affiliated
29 interests interest having transactions, other than ownership of stock
30 and receipt of dividends thereon, with a utility corporations and other
31 corporation or another utility companies company under the
32 jurisdiction of the commission, to the extent of access to all accounts
33 and records, of joint or general expenses, any portion of which may be
34 applicable to such transactions, and to the extent of authority to require
35 such reports to be submitted by such affiliated interests interest as the
36 commission may prescribe. However, the commission has
37 jurisdiction over an affiliated interest having transactions, other
38 than ownership of stock and receipt of dividends on that stock,
39 with an electric utility or gas utility under the jurisdiction of the
40 commission, to the extent of:

41 (1) access to all the affiliated interest's accounts and records,
42 any part of which may apply, directly or indirectly, to:

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1 (A) any transaction between the electric or gas utility and
 2 the affiliated interest; or

3 (B) any goods, services, or other consideration exchanged
 4 between the electric or gas utility and the affiliated
 5 interest; and

6 (2) authority to require any reports to be submitted by the
 7 affiliated interest as the commission may prescribe.

8 (c) For the purpose of this section, ~~only~~, "affiliated interests" include
 9 the following:

10 ~~(a)~~ (1) Every corporation and person owning or holding directly
 11 or indirectly ten percent (10%) or more of the voting capital stock
 12 of such utility corporation.

13 ~~(b)~~ (2) Every corporation and person in any chain of successive
 14 ownership of ten percent (10%) or more of voting capital stock.

15 ~~(c)~~ (3) Every corporation ten percent (10%) or more of whose
 16 voting capital stock is owned by any person or corporation
 17 owning ten percent (10%) or more of the voting capital stock of
 18 such utility corporation or by any person or corporation in any
 19 such chain of successive ownership of ten percent (10%) or more
 20 of voting capital stock.

21 ~~(d)~~ (4) Every person who is an officer or director of such utility
 22 corporation or of any corporation in any chain of successive
 23 ownership of ten percent (10%) or more of voting capital stock.

24 ~~(e)~~ (5) Every corporation which has one (1) or more officers or
 25 one (1) or more directors in common with such utility corporation.

26 ~~(f)~~ (6) Every corporation or person which the commission may
 27 determine as a matter of fact after investigation and hearing is
 28 actually exercising any substantial influence over the policies and
 29 actions of such utility corporation even though such influence is
 30 not based upon stockholding, stockholders, directors, or officers
 31 to the extent specified in this section.

32 ~~(g)~~ (7) Every person or corporation who or which the commission
 33 may determine as a matter of fact after investigation and hearing
 34 is actually exercising such substantial influence over the policies
 35 and actions of such utility corporation in conjunction with one (1)
 36 or more other corporations ~~and/or~~ or persons with which or whom
 37 they are related by ownership ~~and/or~~ or blood relationship or by
 38 action in concert that together they are affiliated with such utility
 39 corporation within the meaning of this section even though no one
 40 of them alone is so affiliated. ~~provided;~~

41 However, ~~that~~ no such person or corporation shall be considered as
 42 affiliated within the meaning of this ~~section~~ subsection if such person

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or corporation is otherwise subject to the jurisdiction of the commission or ~~such person or corporation shall~~ **has** not ~~have~~ had transactions or dealings other than the holding of stock and the receipt of dividends thereon with ~~such the~~ utility corporation ~~during the for at least two (2) year period next preceding~~ **years.**

(d) Except as provided in subsection (e), no management, construction, engineering, or similar contract made after March 8, 1933, with any affiliated interest, as defined in this section, shall be effective unless it shall first have been filed with the commission. If it be found that any such contract is not in the public interest, the commission, after investigation and a hearing, is hereby authorized to disapprove such contract.

(e) This subsection applies to an electric utility or a gas utility. A management contract, construction contract, engineering contract, or similar contract made by a utility after May 15, 2007, with any affiliated interest is not effective unless it is first filed with the commission and is found by the commission, after investigation and a hearing, to be in the public interest and the result of a good faith transaction, consistent with arm's length negotiations, between the utility and the affiliated interest.

~~(f)~~ **(f)** Every annual report of any utility corporation reporting under this chapter to the commission shall contain, in addition to any other information required to be included by or pursuant to law, the following information:

~~(a)~~ **(1)** It shall state the name and address of, and the number of shares held by, each holder of one percent (1%) or more of the voting capital stock of the reporting corporation, according to its records.

~~(b)~~ **(2)** Where one percent (1%) or more of the voting capital stock of the reporting corporation is held by a trustee or trustees, or other intermediate agency, for the beneficial interest of an owner or owners, other than the holder of record, or where one percent (1%) or more of the voting capital stock of the reporting corporation is held by another corporation, such annual report shall state, if the information is available from the records of the reporting corporation, the name and addresses and respective interests of such beneficial owners, and the names and addresses of the officers and directors of any such other corporation and the total number of shares of capital stock thereof held by each, showing separately the number of shares of the voting capital stock, and the names and addresses and respective stockholdings of every stockholder of such other corporation holding one

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1 percent (1%) or more of its voting capital stock. Such report shall
 2 be accompanied by a certified copy of each trust agreement or
 3 other instrument under which any voting capital stock of the
 4 reporting corporation is held.

5 Where the information specified in ~~subsection (3)(b)~~ **subdivision (2)**
 6 is not available from the records of the reporting corporation, any such
 7 holder of record of one percent (1%) or more of the voting capital stock
 8 of the reporting corporation, if ordered so to do by the commission,
 9 shall file with the commission a sworn statement, in such form and to
 10 be filed within such time as the commission shall prescribe, setting
 11 forth whether or not any of such stock held by ~~him or it~~ **the holder of**
 12 **record** is so held for the beneficial ownership of any person, firm,
 13 limited liability company, or corporation other than the record holder
 14 thereof, and, if stated to be so held, the names, addresses, and
 15 respective interests of such beneficial owners. If such stockholder is a
 16 trustee, ~~he or it~~ **the stockholder** also shall file with such statement a
 17 certified copy of the trust agreement or other instrument under which
 18 such stock is held. A corporation which is the holder, of record, of one
 19 percent (1%) or more of the voting capital stock of the reporting
 20 corporation, if ordered so to do by the commission, and regardless of
 21 whether the information is or is not available or apparently available
 22 from the records of the reporting corporation, also shall file with the
 23 commission a sworn statement, in such form and to be filed within such
 24 time as the commission shall prescribe, or shall include in the sworn
 25 statement, if any, required to be filed by it pursuant to other provisions
 26 of this chapter, a statement setting forth the names and addresses of its
 27 officers and directors and the total number of shares of its capital stock,
 28 held by each, showing separately the number of shares of the voting
 29 capital stock, and the names and addresses and respective
 30 stockholdings of each stockholder thereof holding one percent (1%) or
 31 more of its voting capital stock.

32 ~~(4)~~ **(g)** If the annual report, or the sworn statements provided for in
 33 this section, do not furnish the information desired, because of any
 34 chain of successive ownership or of stockholdings, or because of an
 35 intermediate agency or agencies, or for any other reason, the
 36 commission, by order, may require similar sworn statements from any
 37 person or corporation who or which can give the necessary information,
 38 as the commission may have discovered from its investigations, to the
 39 end that the commission may obtain a complete disclosure of the
 40 natural persons, firms, limited liability companies, or corporations and
 41 their respective interests, who or which own or control directly or
 42 indirectly one percent (1%) or more of the voting capital stock of the

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reporting corporation.

(h) The commission may adopt rules under IC 4-22-2 to regulate transactions, other than ownership of stock and receipt of dividends on that stock, between an electric utility or gas utility under the jurisdiction of the commission and an affiliated interest of the electric utility or gas utility.

SECTION 7. IC 8-1-8.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.9. Customer Deposits and Connection Charges for Electric or Natural Gas Utility Service

Sec. 1. As used in this chapter, "applicant" means a person that applies to receive electric or natural gas utility service as a customer of a utility.

Sec. 2. As used in this chapter, "budget billing plan" refers to an alternative billing method that:

- (1) is offered by a utility to a customer;
- (2) bills the customer in equal installments over an extended period, with each installment representing an equal proportion of the amount estimated to be owed to the utility by the customer over the extended period; and
- (3) balances the customer's account at the end of the extended period, so that:

(A) the customer is given a refund or credit for any excess amount paid by the customer over the extended period, if the actual amount owed by the customer over the extended period is less than the total amount paid by the customer in the installments; or

(B) the customer is charged for any deficiency, whether in a one (1) time settlement or in payments spread out over one (1) or more future bills, if the actual amount owed by the customer over the extended period is more than the total amount paid by the customer in the installments.

Sec. 3. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 4. As used in this chapter, "customer" refers to any of the following:

- (1) A residential customer of a utility, including a customer that receives home energy assistance through a program administered by the lieutenant governor under IC 4-4-33.
- (2) A building (as defined in IC 8-1-2-36.5(a)) that:
 - (A) receives utility service from a utility; and

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(B) is served by a master meter, as described in IC 8-1-2-36.5.

(3) A small business (as defined in IC 4-22-2.1-4) that receives utility service from a utility.

Sec. 5. (a) As used in this chapter, "utility" refers to a public, municipally owned, or cooperatively owned utility that provides electric or natural gas utility service to customers.

(b) The term includes a utility owned or held in trust by a consolidated city under IC 8-1-11.1.

Sec. 6. As used in this chapter, "utility service" refers to electric or natural gas utility service that is:

(1) provided by a utility to a customer; and

(2) subject to regulation by the commission.

Sec. 7. (a) A utility may require the payment of a deposit as a condition for receiving utility service only with respect to the following:

(1) An applicant for new utility service, if the applicant:

(A) has not been a customer of the utility during the four (4) years immediately preceding the date of application for new service; and

(B) fails to establish creditworthiness under rules adopted by the commission under IC 4-22-2.

(2) An applicant for new utility service if:

(A) the applicant has been a customer of the utility during the four (4) years immediately preceding the date of application for new utility service; and

(B) the applicant:

(i) owes an outstanding bill for utility service rendered by the utility during the four (4) years immediately preceding the date of application for new utility service;

(ii) during the last twelve (12) consecutive months that the utility service was provided, had more than two (2) bills that were delinquent or, if utility service was provided for a period of less than twelve (12) months, had more than one (1) delinquent bill during that period; or

(iii) during the last two (2) years that the utility service was provided, had the utility service disconnected by the utility for nonpayment of a bill for utility services provided by the utility.

(3) An existing customer of the utility if:

(A) the customer has been mailed disconnect notices for

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two (2) consecutive months;

(B) the customer has been mailed disconnect notices for any three (3) months within the most recent twelve (12) month period; or

(C) the utility service to the customer has been disconnected within the most recent two (2) year period.

(b) Except as provided in subsections (c) and (d), the amount of a deposit allowed under subsection (a) may not exceed one-sixth (1/6) of the estimated annual cost of the utility service to be provided to the applicant or customer. The limit described in this subsection applies regardless of:

(1) the number of customers served by the utility or an affiliate of the utility; or

(2) whether the utility provides electric utility service or natural gas utility service, or both.

(c) If a customer has contracted for a budget billing plan, the amount of the deposit allowed under subsection (a) may not exceed the equivalent of two (2) monthly budget billing payments.

(d) Subject to the limits set forth in subsections (b) and (c), at any time after utility service is provided, an initial deposit made by an applicant is subject to reevaluation upon the request of either the utility or the applicant, based on actual charges for utility services rendered.

Sec. 8. (a) This section applies to a deposit held by a utility for more than thirty (30) days, regardless of:

(1) the number of customers served by the utility; or

(2) the customer class of the customer making the deposit.

(b) A deposit to which this section applies shall earn interest, at a rate determined by the commission under subsection (c), from the date the deposit is paid in full by the customer.

(c) Not later than December 1 of each year, the commission shall issue an order establishing the interest rate that shall be paid on all deposits held for at least the period described in subsection (a) during all or part of the subsequent calendar year.

Sec. 9. (a) This section applies to deposit made by a customer described in section 4(3) of this chapter.

(b) The commission shall adopt rules under IC 4-22-2 establishing the terms and conditions under which a deposit, and any interest earned on the deposit, shall be refunded to the customer. The terms and conditions established by the commission under this section may not be less favorable to the customer than the terms and conditions that apply to a refund made to a customer

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described in section 4(1) of this chapter.

Sec. 10. (a) To the extent that they conflict with this chapter, the following are void:

(1) 170 IAC 4-1-15.

(2) 170 IAC 5-1-15.

(3) Any other rule:

(A) adopted by the commission; and

(B) governing deposits charged by a utility to an applicant or a customer as a condition for receiving utility service.

(b) The commission shall adopt rules under IC 4-22-2 to amend the rules described in subsection (a) to the extent necessary to make the rules conform to the requirements of this chapter.

Sec. 11. (a) Except as provided in subsection (b), a utility may impose a reasonable and just charge for the connection or reconnection of a customer's utility service. A charge imposed under this section may not exceed the costs actually incurred by the utility in connecting or reconnecting service, whichever applies.

(b) If a utility disconnects a customer's utility service in violation of any:

(1) law; or

(2) rule adopted by the commission;

the utility shall immediately reconnect the customer's utility service at no charge to the customer.

(c) If a customer of a utility has:

(1) paid:

(A) any deposit lawfully imposed by the utility under section 7 of this chapter; or

(B) part of a deposit lawfully imposed by the utility under section 7 of this chapter, as agreed to by the customer and the utility;

(2) paid:

(A) any connection or reconnection fee lawfully imposed by the utility under this section; or

(B) part of a connection or reconnection fee lawfully imposed by the utility under this section; and

(3) otherwise complied with any lawfully imposed rules or requirements of the utility;

the utility must connect or reconnect a customer's utility service as soon as reasonably possible, but in no case later than one (1) business day after the utility is requested to connect or reconnect the customer's utility service.

(d) To the extent that they conflict with this chapter, the

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following are void:

(1) 170 IAC 4-1-16.

(2) 170 IAC 5-1-16.

(3) Any other rule:

(A) adopted by the commission; and

(B) governing connection or reconnection charges imposed by a utility.

The commission shall adopt rules under IC 4-22-2 to amend the rules described in this subsection to the extent necessary to make the rules conform to the requirements of this section.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Notwithstanding:

(1) IC 8-1-8.9-9(b);

(2) IC 8-1-8.9-10(b); and

(3) IC 8-1-8.9-11(d);

all as added by this act, the commission shall adopt the rules required under IC 8-1-8.9-9(b), IC 8-1-8.9-10(b), and IC 8-1-8.9-11(d), all as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Rules adopted under this SECTION must be adopted not later than June 1, 2007.

(c) A rule adopted under this SECTION expires on the earlier of:

(1) the date the rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2009.

(d) This SECTION expires January 1, 2009.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Notwithstanding IC 8-1-2-48.3(f) and IC 8-1-2-48.3(h), both as added by this act, the commission shall adopt the rules required under IC 8-1-2-48.3(f) and IC 8-1-2-48.3(h), both as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Rules adopted under this SECTION must be adopted not later than June 1, 2007. A rule adopted under this SECTION expires on the earlier of:

(1) the date the rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36; or

(2) January 1, 2009.

(c) This SECTION expires January 1, 2009.

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1 SECTION 10. **An emergency is declared for this act.**

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